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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
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| 10/766,916 | 01/30/2004 | Jean-Louis Gueret | 118335 | 5691 |
| 25944 | 7590 | 06/26/2006 | | |
| OLIFF & BERRIDGE, PLC P.O. BOX 19928 ALEXANDRIA, VA 22320 | | | EXAMINER PICKETT, JOHN G | |
| | | | ART UNIT 3728 | PAPER NUMBER |

DATE MAILED: 06/26/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/766,916

Applicant(s)

GUERET, JEAN-LOUIS

Examiner

Gregory Pickett

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 30 January 2004.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-35 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-35 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 30 January 2004 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date 1/30/04 & 12/8/04.
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____.

DETAILED ACTION

Priority

1. Receipt is acknowledged of papers submitted under 35 U.S.C. 119(a)-(d), which papers have been placed of record in the file. The priority date is held to be 4 February 2003.

Claim Rejections - 35 USC § 112

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

2. Claim 21 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claim 21 recites the limitations "the top face, the rear face, and at least one of the side faces" in lines 1-2. There is insufficient antecedent basis for these limitations in the claim.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

3. Claims 1, 7-10, 13, 16-18, 24, 26, 32, and 33 are rejected under 35 U.S.C. 102(b) as being anticipated by Vicari (US 6,216,899; provided by applicant).

Claim 1: Vicari discloses a box (see for example Figure 1) with at least one base portion **10/20**, a lid **30**, a first element **20'**, and a second element **30'**. As disclosed by Vicari, elements **20'** and **30'** are of cooperating hook-and-loop material (i.e. VELCRO, see Figure 9), and although they are disclosed as latches, elements **20'** and **30'** are fully capable of functioning as hinges.

Claims 7-10: Vicari discloses four distinct first elements **20'**, including at opposite side faces of the base **10/20**, and four distinct second portions **30'**, all of which are complementary.

Claim 13: First element **20'** comprises fractions fixed on substantially planar surface **20**.

Claim 16: Vicari discloses four distinct element sets **20'** and **30'**, at least one of which may be considered a tab.

Claim 17: First element **20'** extends over side face **20**.

Claim 18: Second element **30'** extends over a side face of lid **30** (see Figure 9).

Claim 24: Vicari discloses relief portion **26** and complementary portion **31**.

Claim 26: Vicari discloses a housing (compartment formed by panels **10** and **20**) receiving at least one substance (automotive parts, Col. 1, lines 9-12).

Claim 32: Vicari discloses second base **11**.

Claim 33: Second element **30'** is movable relative to the box.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
 2. Ascertaining the differences between the prior art and the claims at issue.
 3. Resolving the level of ordinary skill in the pertinent art.
 4. Considering objective evidence present in the application indicating obviousness or nonobviousness.
4. Claims 1-3, 11, 12, 14, 15, 17-21, 24, 26-31, 34, and 35 are rejected under 35 U.S.C. 103(a) as being unpatentable over Manougian et al (US 7,047,983 B2; hereinafter Manougian) in view of Rago et al (US 6,626,432 B2; hereinafter Rago).

Claim 1: Manougian discloses a box **210** (see Figure 7) comprising a base portion **218**, a lid **216**, and a hinge **220**. Manougian discloses the claimed invention except that Manougian uses a pinned hinge instead of a hook-and-loop hinge.

Rago discloses a hinge **22** (see Figure 6) with a first element **62** comprising loop materials and a second element **72** comprising hook materials. Rago shows that a hook-and-loop hinge was an equivalent structure known in the art. Therefore, because these two hinge means were art-recognized equivalents at the time the invention was

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made, one of ordinary skill in the art would have found it obvious to substitute the hook-and-loop of Rago for the pinned hinge of Manougian. An express suggestion to substitute one equivalent component or process for another is not necessary to render such substitution obvious. *In re Fout*, 675 F.2d 297, 213 USPQ 532 (CCPA 1982).

Claims 2, 17, 18, and 21: An interpretation of Manougian discloses a base portion **218** with a top face **258** and rear face (sidewall near hinge **220**), and a lid with a bottom face **264** and rear face (sidewall near hinge **220**). Rago teaches the hook-and-loop fastener wrapping around the top, side, and bottom of the base and lid (see Figure 6), and it would have been obvious to include the wrap-around feature in the combination of Manougian-Rago in order to enable the pivoting feature.

Claim 3: An interpretation of Manougian discloses a base portion **218** with a top face (portion holding third element **256'** of hook or loop material), and a lid **216** with a bottom face (portion holding fourth element **254'** of hook or loop material).

Claims 11 and 12: Manougian-Rago discloses the claimed invention except for the shape of the first element. It would have been obvious to one of ordinary skill in the art at the time the invention was made to provide the first element of Manougian-Rago with the claimed wedge shape in order to conform to the increasing diameter of the base. A change in form or shape is generally recognized as being within the level of ordinary skill in the art, absent any showing of unexpected results. *In re Dailey et al.*, 149 USPQ 47. A change in aesthetic (ornamental) design generally will not support patentability. *In re Seid*, 73 USPQ 431.

Claims 14, 15, 19, and 20: Base **218** of Manougian is a semi-circular cylinder; therefore the first element of the hook-and-loop hinge would comprise a fraction fixed on a surface that is not planar.

Claim 24: Manougian discloses relief portion **258** and cooperating portion **264**.

Claims 26 and 27: Manougian discloses housing **252** containing substance **214**; housing **252** is a dish.

Claim 28: Manougian discloses housing **242** with applicator **244** located on the lid portion. It would have been obvious to one having ordinary skill in the art at the time the invention was made to provide the housing and applicator in the base portion in order to allow for a larger mirror. It has been held that rearranging parts of an invention involves only routine skill in the art. *In re Japikse*, 86 USPQ 70.

Claim 29: Manougian discloses housing **252** having a bottom comprising one of hooks and loops **256**.

Claims 30 and 31: Manougian discloses mirror **240** on a bottom face of lid **216**.

Claim 34: Manougian discloses box **210** as a cosmetic box (see for example the Abstract).

Claim 35: Manougian-Rago discloses the claimed structure, and Rago teaches the obvious use of the hook-and-loop hinge (see Col, 3, lines 50-55).

5. Claims 4-6 and 25 are rejected under 35 U.S.C. 103(a) as being unpatentable over Manougian-Rago as applied to claims 1 and 3 above, and further in view of Flax (US 3,441,033) and Hunt (US 5,878,881; provided by applicant).

Manougian-Rago discloses the claimed invention except for the stacking base with hook-and-loop attachment.

Flax teaches a stacking base **12/14/16**. It would have been obvious to one of ordinary skill in the art at the time the invention was made to provide the box of Manougian-Rago with a stacking base as taught by Flax in order to retain a larger number of articles. Flax also suggests cooperating relief's **32/38**.

Hunt teaches the use of hook-and-loop fasteners **66/68** for the connection of multiple bases **24** (see Figure 17) and it would have been obvious to one of ordinary skill in the art at the time the invention was made to provide the box of Manougian-Rago with hook-and-loop fasteners on the bottom of base **218** as taught by Hunt in order to hold the plurality of bases together.

6. Claims 22 and 23 are rejected under 35 U.S.C. 103(a) as being unpatentable over Manougian-Rago as applied to claim 1 above, and further in view of Beasley et al (US 5,115,916; hereinafter Beasley).

Manougian-Rago discloses the claimed invention except for the setback portion.


Beasley teaches a hook-and-loop fastener placed in a setback portion (see Figure 6). It would have been obvious to one of ordinary skill in the art at the time the invention was made to provide the hook-and-loop hinge of Manougian-Rago in a setback portion as taught by Beasley in order to accurately locate the hinge parts during assembly.


Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Gregory Pickett whose telephone number is 571-272-4560. The examiner can normally be reached on Mon-Fri, 11:30 AM - 8:00 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Mickey Yu can be reached on 571-272-4562. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.


Greg Pickett
Examiner
14 June 2006


Mickey Yu
Supervisory Patent Examiner
Group 3700